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| <p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ROBERT P. DEFRAIN,</p> <p>v.</p> <p>Respondent:</p> <p>LARIMER COUNTY BOARD OF EQUALIZATION.</p> | <p>Docket No.: 52240</p> |
| <p>ORDER</p> | |

THIS MATTER was heard by the Board of Assessment Appeals on March 29, 2010, James R. Meurer and Sondra W. Mercier presiding. Petitioner, Mr. Robert P. DeFrain, appeared pro se. Respondent was represented by William G. Ressue, Esq. Petitioner is protesting the 2009 classification of the subject property. The valuation of the subject property is not in dispute.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**549 Hondius Court, Estes Park, Colorado
(Larimer County Schedule No. R1277910)**

The subject property consists of a 5.67 acre, more or less, parcel.

Petitioner contends that the subject should be classified as residential, not vacant land.

Mr. DeFrain testified that he had ordered a manufactured home in July 2008. Upon completion, the manufactured home was delivered to the subject property in October 2008. The home was delivered in two sections, with all interior finish work, appliances and electrical completed. Reportedly, the driveway and site preparation was also done in October 2008; however, Petitioner was waiting on the building permit to pour concrete and construction was put on hold for a month. Petitioner contends that the building permit was dated December 30, 2008. In late January 2009, the concrete footings were poured and the home was placed on the foundation. Petitioner

acknowledges that framing and footing work were not done until 2009. However, Petitioner contends that upon delivery, the home was at least 80% complete.

Petitioner is requesting a residential classification for tax year 2009.

Respondent's witness, Mr. Greg Daniels testified that the subject was vacant land as of January 1, 2009 and that the permit was not issued until January 7, 2009. Respondent's witness did not know that there was a manufactured home on the site prior to January 1, 2009.

Respondent contends that delivery of the manufactured home does not change the status from vacant land to residential and that excavation, footing work and foundation were not completed by January 1, 2009.

Respondent assigned an actual value of \$255,000.00 and vacant land classification to the subject property for tax year 2009.

Petitioner did not present sufficient probative evidence and testimony to prove that the subject property was incorrectly classified for tax year 2009.

Section 39-1-102(14.4), C.R.S. defines "Residential land" as "a parcel or contiguous parcels of land under common ownership upon which **residential improvements** are located and that is used as a unit in conjunction with the residential improvements located thereon. . . ." Section 39-1-102(7), C.R.S. defines "Improvements" as "all structures, buildings, fixtures, fences, and water rights **erected upon or affixed to land**, whether or not title to such land has been acquired." (Emphasis added.)

Petitioner provided no compelling evidence that there were any improvements, residential or otherwise, affixed to the land as of January 1, 2009. The manufactured unit may have been delivered prior to January 1, 2009; however, it was not affixed to the foundation until late January 2009. Consequently, on the assessment date, the site did not include a residential improvement as defined by Colorado Revised Statutes and cannot be considered residential land.

ORDER:

The petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 12th day of May 2010.

BOARD OF ASSESSMENT APPEALS

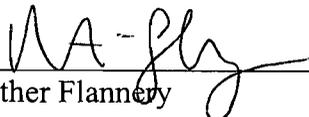


James R. Meurer



Sondra W. Mercier

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.



Heather Flannery

